

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Health Services v.

Janet Graham, L.P.N.

33 Prince Street

Bristol, CT 06010

CASE PETITION NO. 880830-11-007

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Statement of Charges dated January 31, 1989.

The Statement of Charges alleged violations of certain provisions of Chapter 378, Connecticut General Statutes. The Board issued a Notice of Hearing dated February 1, 1989. The Hearing was scheduled for February 28, 1989. A continuance request was granted to the Respondent's Attorney. The Hearing was rescheduled for April 5, 1989 and a continuance of the Hearing took place on May 24, 1989, in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

FINDINGS OF FACT

Based on the testimony given and the exhibits offered into evidence, as well as the discussion which follows, the Board made the following findings of fact:

1. Janet Graham, L.P.N., hereinafter referred to as Respondent, was issued Connecticut Licensed Practical Nurse license number 010203 on May 1, 1969 (Department Exhibit 5).

2. Pursuant to Connecticut General Statutes, Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of her license (Department Exhibit 1).

3. The Respondent, at all pertinent times, was licensed to practice as a Licensed Practical Nurse in the State of Connecticut (Department Exhibit 5).

4. The Respondent was aware of the time and location of the hearing. Department Exhibit 3 indicates that notice of the location and time of this hearing were delivered by certified mail to the Respondent's address of record. A continuance was granted at the Respondent's Attorney's request. Department Exhibit 4 indicates that notice of the location and time of the April 5, 1989 hearing were delivered by certified mail to the Respondent's address of record and the Respondent's Attorney. A notice of Formal Continuance of Hearing was sent by certified mail to the Respondent and her Attorney for the May 24, 1989 hearing. The Respondent was represented by counsel at the hearings.

5. The Respondent, while working as a licensed practical nurse at University of Connecticut Health Center, in Farmington, Connecticut, during 1988 diverted one or more of the controlled substances Hydromorphone, M.S. Contin, Oxycodone, Codeine, and Percocet.

6. The Respondent, while working as a licensed practical nurse at University of Connecticut Health Center, in Farmington, Connecticut, during 1988, diverted one or more proof of use sheets.

7. The Respondent, while working as a licensed practical nurse at University of Connecticut Health Center, in Farmington, Connecticut, during 1988, failed to appropriately make documentations in medical or hospital records.

8. The Respondent, while working as a licensed practical nurse at the University of Connecticut Health Center, in Farmington, Connecticut, during 1982 and subsequent times thereto diverted one or more of the following items:

- a. 4 bottles of Castor oil
- b. 1 bottle of normal saline nose drops
- c. 3 packets of Promethazine HCL
- d. 3 packets of chewable aspirin
- e. 1 packet of Hydroxyzine Pamocite
- f. 2 packets of Acetaminophen
- g. 1 packet of Dicloxacillin
- h. 1 packet of Aluminum Hydroxide
- i. 2 syringes of Acetaminophen with Codeine
- j. 1 syringe of Bactrim oral suspension elixir.

DISCUSSION AND CONCLUSIONS

The First Count, Subsection 3a, alleges that while employed as a licensed practical nurse at the University of Connecticut Health Center during 1988, the Respondent diverted the controlled substances Hydromorphone, M.S. Contin, Oxycodone, Codeine and/or Percocet. The Respondent denies these charges (Transcript of Hearing, dated April 5, 1989, p. 9).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

Based upon the testimony and exhibits offered into evidence the Board has determined that during 1988 the Respondent diverted the controlled substances Hydromorphone, M.S. Contin, Oxycodone, Codeine and Percocet. Department Exhibit 8 documents that on May 17, 1988, an audit of controlled substances was conducted on Unit H-4 which documented that Percocet tablets were missing. On June 25 and 26, 1988, an audit of controlled substances on Unit H-7 documented that Hydromorphone tablets, M.S. Contin tablets and Codeine tablets were missing. On June 28, 1988, an audit of controlled substances on Unit H-7 documented that Oxycodone tablets were missing. On July 4, 1988, an audit of controlled substances on Unit H-7 documented that Hydromorphone tablets and Oxycodone tablets were missing. On July 9 and 10, 1988, between the time of 2 P.M. July 9 and 2 P.M. July 10, 1988, controlled substance audits documented that Hydromorphone, Oxycodone, and Percocet were missing from Unit H-7. On July 15, 1988, An audit of controlled substances was done prior to 7:00 a.m. shift change. A controlled

substance audit done after 1:30 p.m. documented that Hydromorphone 2mg tablets and M.S. Contin tablets were missing from Unit H-7 (Department Exhibit 8, pp. 1-4). The Respondent was observed leaving the floor of Unit H-7 carrying a tissue box. The Respondent then retreated into a nearby employee restroom. Observed upon leaving the restroom, it was noted that the Respondent was no longer carrying the tissue box. A search conducted of the restroom after the Respondent was being questioned by Drug Control Agent Barry Gordon, materialized the controlled substances M.S. Contin and Hydromorphone 2mg. tablets noted missing on July 15, 1988 at 1:30 p.m on Unit H-7. The controlled substances were found within the tissue box that the Respondent was observed carrying (Department Exhibit 8). Department Exhibit 16 documents that the Respondent was the only person that consistently had access to all medications on all the dates in question when controlled substances were noted missing from the narcotic cabinets. The Board concludes that Respondent has violated Connecticut General Statutes Section 20-99(b)(2), as specified in the First Count, Subsection 3a.

The First Count, Subsection 3b, alleges that the Respondent, while employed as a licensed practical nurse at the University of Connecticut Health Center during 1988, diverted one or more proof of use sheets. The Respondent denies this charge. (Transcript of Hearing, dated April 5, 1989, p. 9)

The above referenced conduct is a violation of the Connecticut General Statutes Section 20-99(b)(6) which includes: "... (6) fraud or material deception in the course of professional services or activities...."

The Board has determined that during 1988, the Respondent diverted one or more proof of use sheets. Department Exhibit 8 documents that on May 17, 1988, an audit of controlled substances was conducted on Unit H-4 documented that a proof of use sheet for Percocet was missing. On June 25 and 26, 1988, an audit of controlled substances on Unit H-7 documented that proof of use sheets for Hydromorphone tablets, M.S. Contin tablets and Codeine tablets were missing. On June 28, 1988, an audit of controlled substances on Unit H-7 documented that a proof of use sheet for Oxycodone tablets was missing. On July 4, 1988, an audit of controlled substances on Unit H-7 documented that a proof of use sheet for Hydromorphone tablets and Oxycodone tablets were missing. On July 9 and 10, 1988, between the times of two p.m. on July 9 and 2 p.m. on July 10, 1988, controlled substance audits documented that a proof of use sheets for Hydromorphone, Oxycodone, and Percocet were missing from Unit H-7. On July 15, 1988, an audit of controlled substances was done prior to 7:00 a.m. shift change. A controlled substance audit done after 1:30 p.m. documented that proof of use sheets for Hydromorphone 2mg tablets and M.S. Contin tablets were missing (Department Exhibit 8, pp. 1-4). Department Exhibit 16 documents that the Respondent was the only person that had access to all medications on all the dates in question where controlled substances and proof of use sheets were missing.

The Board, therefore, concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(6), as specified in the First Count, Subsection 3b.

The First Count, Subsection 3c, alleges that the Respondent, while employed as a licensed practical nurse at University of Connecticut Health Center during 1988, failed to completely, accurately or appropriately make documentations in medical or hospital records.

The above referenced conduct is a violation of the Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that the Respondent failed to appropriately make documentations in medical or hospital records. The Respondent, under sworn testimony on May 24, 1989, admitted that she did not document in a timely manner on the proof-of-use sheet the administration of Rilatin. The Board, therefore, concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2), as specified in the First Count, Subsection 3c.

The First Count, Subsection 3d alleges that the Respondent while working as a licensed practical nurse at the University of Connecticut Health Center, in Farmington, Connecticut, during 1982 and subsequent thereto, diverted one or more of the following items:

- a. 4 bottles of Castor oil
- b. 1 bottle of normal saline nose drops
- c. 3 packets of Promethazine HCL
- d. 3 packets of chewable aspirin
- e. 1 packet of Hydroxyzine Pamocite
- f. 2 packets of Acetaminophen
- g. 1 packet of Dicloxacillin

- h. 1 packet of Aluminum Hydroxide
- i. 2 syringes of Acetaminophen with Codeine
- j. 1 syringe of Bactrim oral suspension elixir.

The above referenced conduct is a violation of the Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that the Respondent diverted one or more of the following items from the University of Connecticut Health Center which the Respondent had access to at the time of her employment:

- a. 4 bottles of Castor oil
- b. 1 bottle of normal saline nose drops
- c. 3 packets of Promethazine HCL
- d. 3 packets of chewable aspirin
- e. 1 packet of Hydroxyzine Pamocite
- f. 2 packets of Acetaminophen
- g. 1 packet of Dicloxacillin
- h. 1 packet of Aluminum Hydroxide
- i. 2 syringes of Acetaminophen with Codeine
- j. 1 syringe of Bactrim oral suspension elixir.

Sworn testimony by the Director of Pharmacy of the University of Connecticut Health Center indicates that the aforementioned items, found in a dumpster in Bristol, Connecticut, were items from the University of Connecticut Health Center (Transcript of Hearing, April 5, 1989, pp. 81-82). Found with these items was prescription medication labeled for the Respondent's daughter (Transcript of

Hearing, April 5, 1989, pp. 37-38). Department Exhibits 9 & 10 documents that prescription medications, which also were found in the aforementioned medications, were for patients in a variety of nursing homes by which the Respondent had been employed. These medications were documented as found by the Bristol Police Department through an anonymous call to the Bristol Police Department. The Respondent's husband, Bruce Graham, signed a written sworn statement to the Bristol Police Department (Transcript of Hearing, April 5, 1989, pp.57 & 58), stating that he removed a large garbage bag from his house earlier that day and disposed of it at the Saint Joseph's Church dumpster (Hearing of Transcript, April 5, 1989, pp.55-58 and Respondent Exhibit 5). Bruce Graham has since denied admission to this statement. An anonymous phone call to the Bristol Police Department documents that a neighbor overheard a conversation between the Respondent and the Respondent's husband on the morning of July 22, 1988 referencing the above mentioned garbage bag (Transcript of Hearing, April 5, 1989, p. 53). A search conducted by the Bristol Police Department of St. Joseph's Church dumpster turned up a garbage bag of prescription medications believed to be diverted from the University of Connecticut Health Center and area nursing homes. A review of medications by the Director of Pharmacy at the University of Connecticut Health Center positively identified a quantity of those medications as coming from the University of Connecticut Health Center (Transcript of Hearing, April 5, 1989, pp.81-82). A further audit by Drug Control Agent Barry Gordon confirmed that a quantity of those medications were positively identified by area nursing homes for nursing home patients (Department Exhibit 9 & 10). The Respondent had access,

at the time of her employment to all of said medications. Based upon the testimony and exhibits presented, the Board, therefore, concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2), as specified in the First Count, Subsection 3d.

ORDER

It is the unanimous decision of those members of the Board of Examiners for Nursing who were present and voting that for each Subsection of the First Count Section 3:

1. ~~The license of the Respondent be revoked.~~
2. ~~The date of this revocation shall commence on August 15, 1989.~~
3. The Respondent, Janet Graham, is hereby directed to surrender all copies of her license and current registration to the Board of Examiners for Nursing at 150 Washington Street, Hartford, Connecticut 06106 on or before August 15, 1989.

The Board of Examiners for Nursing hereby informs the Respondent and the Department of Health Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 22nd day of June,
1989.

BOARD OF EXAMINERS FOR NURSING

BY Scott J. M. Muesky, RN

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